

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL A. PAYNE,)	CASE NO. 5:16-cv-403
)	
PLAINTIFF,)	JUDGE SARA LIOI
)	
vs.)	MEMORANDUM OPINION
)	AND ORDER
ALISON McCARTHY, et al.,)	
)	
DEFENDANTS.)	
)	

State prisoner Michael A. Payne (“plaintiff”), acting *pro se*, has filed this § 1983 civil rights action against the judge in his state criminal case, the prosecutor, assistant prosecutor, warden and former warden of the state correctional institution in which he is incarcerated, and the Director of the Ohio Department of Rehabilitation and Correction. He seeks declaratory relief and \$600 million in compensatory and punitive damages on the basis of a defect he alleges in the criminal indictment upon which he was convicted.

Plaintiff, however, has already pursued a § 1983 action against the same defendants arising from his criminal indictment in a previous case he filed in this Court. *See Payne v. McCarthy, et al.*, Case No. 5:15-cv-2253 (N.D. Ohio). On January 29, 2016, the Court dismissed plaintiff’s prior § 1983 complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A. (*See id.* at ECF Doc. Nos. 7, 8.) The dismissal of plaintiff’s prior action has res judicata effect and establishes that this duplicative action is frivolous. *See Hill v. Elting*, 9 F. App’x 321 (6th Cir. 2001) (“[t]he § 1915(e) dismissals of [plaintiff’s] two earlier IFP complaints have res judicata

effect and establish that [his] third IFP complaint is frivolous[.]”). Accordingly, this action is dismissed pursuant to 28 U.S.C. § 1915A.

Plaintiff’s motion requesting copies of the exhibits he submitted with his complaint and a docket sheet (ECF No. 3) is granted, and the clerk’s office is directed to send copies of these materials to plaintiff.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Dated: April 27, 2016



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE